

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

WESLEY DEXTER ROBERTS, JR.,

Plaintiff,

v.

No. 13-cv-0955 WJ/SMV

**SANDRA STEWART, CLAY CORN,
FNU GARGIA, FNU SALAZAR, and
FNU SANCHEZ,**

Defendants.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

THIS MATTER is before the Court on Plaintiff's Motion for Appointment of Counsel [Doc. 3] ("Motion"), filed October 2, 2013. Defendant has not filed a response, and none is needed. The Court, being fully advised in the premises, FINDS that the motion is not well-taken and should be DENIED.

Plaintiff requests appointment of counsel because he cannot afford to hire an attorney and does not have access to a law library. Motion [Doc. 3] at 1. United States District Courts lack the authority to appoint counsel to represent indigent prisoners in § 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). In deciding whether to request voluntary assistance of counsel, courts should consider "the merits of the litigant's claims, the nature of the factual issues raised in the claims, the litigant's ability to present his claims, and the complexity of the legal issues raised by the claims." *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (internal quotation marks omitted). Ultimately,

the burden is on the plaintiff “to convince the court that there is sufficient merit to his claim to warrant [a request for voluntary assistance] of counsel.” *Hill v. Smithkline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004) (internal quotation marks omitted).

The Court is not convinced that there is sufficient merit or complexity in Plaintiff’s claims to warrant the Court’s requesting assistance of counsel. Moreover, thus far, Plaintiff has been adequately presenting his claims. The Court therefore declines to request the voluntary assistance of counsel for Plaintiff pursuant to 28 U.S.C. § 1915(e)(1).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff’s Motion for Appointment of Counsel [Doc. 3] is **DENIED**.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge